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January 26, 2004

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: **Notice of Ex Parte Presentation** — AT&T Petition for Declaratory Ruling, WC Docket No. 02-361 (Oct. 19, 2002)

Dear Ms. Dortch:

On Friday, January 23, 2004, Ken Levy and I of the National Exchange Carrier Association, Inc. (NECA); David Bartlett of Alltel; Daniel Mitchell of NTCA; John Rose of OPASTCO; Judith Harris of Reed Smith, LLP and Michael McMenamin of USTA (the Associations), met with Commissioner Martin, Daniel Gonzalez and Jason Williams.

In this meeting, the Associations discussed the urgent need to deny the above captioned Petition for Declaratory ruling. In particular, the Associations made the point that AT&T's VoIP service is plain long distance service. AT&T uses Internet Protocol for transport between interexchange carrier switches and uses switched access services to originate and terminate calls. AT&T must therefore pay for the use of these access services.

The Associations furthered that consumers would be harmed as revenues generated from access payments help small and rural telephone companies provide quality telephone service and keep end-user rates low. The essence of the Association's presentation is summarized in the attached handout.

In accordance with the Commission's rules, a copy of this Notice has been filed electronically in the above referenced docket.

Sincerely,

Colin Sandy

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cc: Commissioner Kevin Martin
Daniel Gonzalez
Jason Williams
Qualex International

AT&T Petition Would Hurt Rural Telephone Companies

- Rural Telephone consumers are at risk:
  - Access charges account for more than $2 Billion in small company revenues (interstate and intrastate).
  - Access revenues represent as much as 70% of small telco revenues and the financial ability to provide ongoing services for their consumers.
  - An access charge exemption for IXCs' phone-to-phone IP telephony services could affect consumers by forcing rural LECs to delay network upgrades, impair customer service efforts and place upward pressure on end-user rates. Over time, it may even threaten small LECs' ability to remain viable.

- Continued FCC inaction only invites more "free riders" and exposes rural consumers to unnecessary risk.

- Let's cut through the hype: using Internet Protocol between IXC switches to transport a call should not exempt an IXC from paying to terminate or originate that call. It's that simple.

- AT&T's use of IP technology to transport a call doesn't reduce in any way the LEC's costs of either originating or terminating a call.

- AT&T's petition is not "net protocol conversion" … rather it is a protocol conversion as the call transits the backbone – bottom-line, it starts as TDM and ends as TDM – nothing new here.

- AT&T's request for preferential treatment that favors a specific technology is simply an attempt at regulatory arbitrage.

- From the end-user's perspective, a phone-to-phone IP call is no different than a traditional long distance call and should therefore be treated as such with regard to the application of interstate access charges.

- Every carrier paying access charges today would use IP telephony for transport if AT&T's petition is granted, thereby gutting the access charge system and leaving SLCs and USF to make up the difference.

- There will be a detrimental effect to consumers in rural America.

- The Commission should act promptly to deny AT&T's Petition for Declaratory Ruling.